UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

GARY L. WHEELOCK, Plaintiff, v. UNITED STATES OF AMERICA, et al., Defendants.	Case No. 07-CV-2177-JM(JMA) **ORDER FOLLOWING EARLY NEUTRAL EVALUATION CONFERENCE**

On March 12, 2008 at 10:00 a.m., the Court convened an Early Neutral Evaluation Conference in the above entitled action.

IT IS HEREBY ORDERED:

1. A Settlement Conference shall be conducted on **May 14, 2008** at **10:00 a.m.** in the chambers of Magistrate Judge Adler. Counsel shall submit settlement statements **directly** to Magistrate Judge Adler's chambers no later than **May 7, 2008**. The parties may either submit confidential settlement statements or may exchange their settlement statements. **All named parties, all counsel, and any other person(s) whose authority is required to negotiate and enter into settlement shall appear in person at the**

conference. **The individual(s) present at the Settlement Conference with settlement authority must have the unfettered discretion and authority on behalf of the party to: 1) fully explore all settlement options and to agree during the Settlement Conference to any settlement terms acceptable to the party (*G. Heileman Brewing Co., Inc. v. Joseph Oat Corp.*, 871 F.2d 648, 653 (7th Cir. 1989)), 2) change the settlement position of a party during the course of the Settlement Conference (*Pitman v. Brinker Int'l, Inc.*, 216 F.R.D. 481, 485-86 (D. Ariz. 2003)), and 3) negotiate a settlement without being restricted by any predetermined level of authority (*Nick v. Morgan's Foods, Inc.*, 270 F.3d 590, 596 (8th Cir. 2001)).**

Governmental entities may appear through litigation counsel only. As to all other parties, appearance by litigation counsel only is not acceptable. Retained outside corporate counsel shall not appear on behalf of a corporation as the party who has the authority to negotiate and enter into a settlement. **The failure of any counsel, party or authorized person to appear at the Settlement Conference as required will result in the immediate imposition of sanctions.** All conference discussions will be informal, off the record, privileged, and confidential.

2. A telephonic Case Management Conference shall be held on **April 29, 2008** at **9:00 a.m.** before Magistrate Judge Adler. Counsel for each party shall appear telephonically at this conference. The Court will initiate the conference call.

3. If counsel determine that the case is not in a settlement posture, a proposed joint discovery plan shall be lodged with Magistrate Judge Adler's chambers on or before April

24, 2008 (the parties should consult Rule 26(f) for the substance of the discovery plan).

4. Settlement statements and/or the proposed joint discovery plan may be delivered directly to chambers, e-mailed to efile_adler@casd.uscourts.gov, or faxed to (619) 702-9939.

IT IS SO ORDERED.

DATED: March 12, 2008

Jan M. Adler
U.S. Magistrate Judge